IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 8TH FEBRUARY 2007 / 19TH MAGHA 1928

WP(C).No. 16045 of 2006(I)

PETITIONER:

SMT.MRUDULA BHAI, W/O.SATHYAN,
PARAMBATH HOUSE, P.O.CHAVODE, VADAKARA.

BY ADV. SRI.I.DINESH MENON

RESPONDENTS:

THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
VADAKARA.

BY GOVERNMENT PLEADER SMT.M.K. PUSHPALATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1- TRUE COPY OF THE JUDGMENT IN W.P.(C).23134/05 DATED 15.11.2005

EXT.P2- TRUE COPY OF THE RELEVANT PAGES OF THE RC BOOK OF KL-13 J 4779

EXT.P3- TRUE COPY OF THE LETTER DATED 12.12.05

EXT.P4- TRUE COPY OF THE COMMUNICATION DATED 17.4.06

EXT.P5- TRUE COPY OF THE REQUEST DATED 8.5.06

EXT.P6- TRUE COPY OF THE RELEVANT PAGES OF THE RC BOOK OF KL-13 J 4779

RESPONDENT'S EXHIBIT

EXT.R1(a)- TRUE COPY OF THE LETTER DATED 27.12.2005 SUBMITTED BY THE PETITIONER.

(TRUE COPY)

P.S TO JUDGE

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 16045 OF 2006-I

JUDGMENT

The petitioner is the transferee of a stage carriage bearing No.KL-13/J 4779. The said vehicle is covered by a regular permit on the route Kakkattil – Vadakara – Kozhikode. Her predecessor-in-interest applied for variation of that permit, to operate the same as L.S.O.S. Though, initially, the R.T.A rejected the application, on the basis of the direction in the judgment of the S.T.A.T., it allowed the variation on 29.12.2000. Even thereafter, the permit was not issued to him. The Secretary, R.T.A took the stand that the permit cannot be issued, as the petitioner failed to produce the current records in time. The said order was challenged before this Court. This Court by Ext.P1 judgment issued the following direction:

> "Since the RTA has not so far revoked its decision, granting variation, I think, the petitioner is entitled to get the variation endorsed in his permit. If the petitioner produces the current records of the vehicle, including the permit, along with a copy of this judgment within one month from today, the respondent shall endorse the variation in the permit, granted by the RTA, by decision dated 29.12.2000, after settling the time schedule within two months from the date of production of a copy of this judgment."

The petitioner submits, she produced the current records of the vehicle

along with Ext.P3 covering letter on 12.12.2005. Later, the Secretary, R.T.A., again rejected her claim for endorsing the variation in the permit, by Ext.P4 order dated 17.4.2006. According to the Secretary, R.T.A the petitioner produced the current records only on 27.12.2005. It was beyond the time limit fixed by this Court in Ext.P1 judgment. This Writ Petition is filed, challenging Ext.P4.

2. The respondent has filed a counter affidavit, stating that the petitioner has produced the current records only along with the covering letter dated 27.12.2005. He relies on Ext.R1(a) letter given by the petitioner. The petitioner has filed a reply affidavit. Relying on Ext.P6, which contains photo copies of the relevant pages of the registration certificate, it is submitted that the records of the vehicle were always current and the petitioner has, in fact, produced them on 12.12.2005. She explains Ext.R1(a), as a second letter given on 27.12.2005. That was for endorsing the transfer in favour of the petitioner.

3. Going by the materials produced in this writ petition, it cannot be finally decided when the petitioner actually produced the current records. Ext.P1 judgment has become final. Therefore, the petitioner as well as this Court is bound by it. If the petitioner did not produce the current records within one month, the stand taken by the Secretary, R.T.A in Ext.P4 is

correct. Since this disputed question cannot be decided under Article 226 of the Constitution of India, the writ petition is dismissed without prejudice to the contentions of the petitioner. The dismissal will not affect the rights, if any, of the petitioner to invoke any other remedy available to her under law. If there is any limitation prescribed for invoking the remedy available to her, the period this writ petition was pending before this Court, shall be excluded, while computing the same.

8th February, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/